

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

MARCH 2, 2006

The Marlboro Township Council held its regularly scheduled meeting on March 2, 2006 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Morelli opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 3, 2006; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Council Vice President Cantor, Councilman Pernice, Councilman Rosenthal, Councilwoman Tragni and Council President Morelli.

Also present were: Andrew Bayer, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Council President Morelli opened the Public Hearing on Ordinance #2006-7 (Vacation of Drainage & Utility Easement - Block 360.02, L. 12 & 13). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution Res. #2006-107/Ord. #2006-7 (Vacation of Drainage & Utility Easement - Block 360.02, L. 12 & 13) was introduced by reference, offered by Council Vice President Cantor, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-107

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-7

AN ORDINANCE AUTHORIZING THE VACATION OF A DRAINAGE AND UTILITY EASEMENT HELD BY THE TOWNSHIP FOR THE PROPERTIES KNOWN AS BLOCK 360.02, Lots 12 and 13

which was introduced on February 16, 2006, public hearing held March 2, 2006, be adopted on second and final reading this 2nd day of March, 2006.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Morelli opened the Public Hearing on Ordinance # 2006-8 (Vacation of Drainage & Utility Easement - Block 360.02, L. 15). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution Res. #2006-108/Ord. # 2006-8 (Vacation of Drainage & Utility Easement - Block 360.02, L. 15) was introduced by reference, offered by Councilman Rosenthal, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-108

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-8

AN ORDINANCE AUTHORIZING THE VACATION OF A DRAINAGE AND UTILITY EASEMENT HELD BY THE TOWNSHIP FOR THE PROPERTY KNOWN AS BLOCK 360, Lot 15

which was introduced on February 16, 2006, public hearing held March 2, 2006, be adopted on second and final reading this 2nd day of March, 2006.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Resolution #2006-109/Ordinance #2006-9(Establishing Rules and Regs - Marlboro Aquatic Center) was introduced by reference as amended, offered by Council Vice President Cantor, seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-109

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-9 (AS AMENDED)

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 132
"TOWNSHIP SWIM UTILITY, MARLBORO SWIM CLUB" OF THE CODE OF
THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on March 16, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-9 (AS AMENDED)

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 132
"TOWNSHIP SWIM UTILITY, MARLBORO SWIM CLUB" OF THE CODE OF
THE TOWNSHIP OF MARLBORO

WHEREAS, Chapter 132 sets forth the rules and regulations for the operation of the Marlboro Swim Club; and

WHEREAS, the Swim Club Division has recommended that Chapter 132 be amended to also include certain rules and regulations governing the Marlboro Recreation Aquatic Center; and

WHEREAS, the Township Council and the Mayor now desire to adopt the recommendations of the Swim Club Division.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that the title of Chapter 132 "Township Swim Utility, Marlboro Swim Club" of the Code of the Township of Marlboro is

hereby changed to "Township Swim Utility, Marlboro Swim Club and Marlboro Recreation Aquatic Center"; and

BE IT FURTHER ORDAINED, that Sections 132-1 through Section 132-14 of Chapter 132 be recodified under Article I "Marlboro Swim Club" and that the word "chapter" throughout those sections be changed to "article"; and

BE IT FURTHER ORDAINED, that Chapter 132 be amended and supplemented to include a new article entitled Article II "Marlboro Recreation Aquatic Center" to read in its entirety as follows:

"§ 132-15 Purpose.

A. There are hereby created and established rules and regulations for the use and operation of the township swim facility known as the "Marlboro Recreation Aquatic Center."

B. Use of the Marlboro Recreation Aquatic Center shall be subject to such rules and regulations as may be promulgated by the Township Council by ordinance, resolution or by pool rules which shall be available at all times at the Swim Club Office at the Marlboro Township Municipal Complex and at the Swim Club Office at the Marlboro Recreation Aquatic Center.

§ 132-16 Definitions.

As used in this Article, the following words shall have the meanings assigned to them below:

"FACILITY" - The Marlboro Recreation Aquatic Center.

"SEASON" - The period of pool operation during a calendar year as determined by the Swim Club Division."

"SWIM CLUB DIVISION" - The Division of Swimming Facilities as defined by the Administrative Code.

§ 132-17 Membership in Facility.

A. Membership in the Marlboro Recreation Aquatic Center shall only be available to residents of the Township. The maximum number and types of memberships available for a particular year shall be established by the Administration and the Swim Club Division on an annual basis.

B. Types of Membership. Residents may purchase a weekend membership in the Marlboro Recreation Aquatic Center which entitles the member to use the Facility in accordance with a schedule that shall be established by the Swim Club Division on an annual basis. The following types of weekend memberships are available:

(1) Family membership. This membership includes a husband and wife or widow or widower and all children, natural or adopted, under the age of 25 years on or before the start of the season and unmarried, living in the same residence.

(2) Individual membership. This membership is available to any person age 15 and over on or before the start of the season. However, no such membership shall be sold to anyone under the age of 18 without the express written consent from a parent or legal guardian of the minor child.

(3) Senior membership. This membership is available to any person age 62 or older on or before the start of the season.

C. For purposes of this Section, a family membership shall count as one (1) membership and an individual membership or senior membership shall count as one-half (1/2) of a membership.

D. All memberships are non-transferable to another family. However, an individual member may, at any time, transfer their membership to another family member that is 15 years of age or older. However, the member transferring their membership must first surrender to the Swim Club Office, their active ID card and will not be entitled to use the Facility as a member, during the unpaid season. A new ID card will then be issued to the family member to whom the membership is transferred at a fee of five dollars (\$5.00).

§ 132-18 Membership and Other Fees.

A. Membership fees for each season shall be as follows:

- | | |
|-------------------------------------|----------|
| (1) Weekend Family Membership - | \$299.00 |
| (2) Weekend Individual Membership - | \$150.00 |
| (3) Weekend Senior Membership - | 75.00 |

B. Notwithstanding the foregoing, a family, individual or senior who has a current membership in the Marlboro Swim Club shall only be required to pay the following discounted membership fee for the Marlboro Recreation Aquatic Center:

- | | |
|-------------------------------------|---------|
| (1) Weekend Family Membership - | \$49.00 |
| (2) Weekend Individual Membership - | \$25.00 |
| (3) Weekend Senior Membership - | \$13.00 |

C. The administrative fee for the refund of a weekend membership fee made prior to the start of the season shall be thirty-five dollars (\$35.00). There shall be no refund of any such fees after the date established for the start of the season.

D. Members who pay by check and whose checks are returned by their bank as uncollectible for any reason will be charged an additional fee of thirty-five dollars (\$35.00) for each returned check.

E. Private Swim Lessons. Each lesson shall be one-half (1/2) hour in duration and the following shall apply:

(1) Interested members shall purchase a coupon book containing three (3) coupons at a cost of sixty dollars (\$60.00);

(2) For any such lessons, the instructor shall not be paid his/her regular hourly pay, but shall obtain one (1) coupon from the person taking the lesson. This coupon is to be turned in at the Swim Club Office at the Municipal Complex. The instructor shall receive fourteen dollars (\$14.00) per one-half (1/2) hour lesson; and

(3) There shall be no refund of the private swim lesson fee.

§ 132-19 Identification of Members.

A. A photo identification card shall be issued to each member, two years of age and older, which shall be shown to gain entry into the Marlboro Recreation Aquatic Center.

B. The Swim Club Office shall fix and publicize the days, hours and location where photographs will be taken and the rules and regulations thereto. Members failing to appear for the taking of their photograph at such time will be subject to a charge of \$7.00.

C. Such photo identification cards will not be transferable and their illegal transfer or misuse will result in revocation or suspension of membership.

D. Lost photo identification cards must be reported to the Swim Club Office immediately and may be replaced by payment of a fee of \$5.00.

E. Members not presenting their photo identification card at the entrance can be denied access into the facility at the discretion of the Pool Manager.

F. When requested, a member must present or surrender his or her photo identification card to the Pool Manager.

§ 132-20 Guest Books.

A. Each member shall be entitled to purchase guest books in an amount to be determined by the Swim Club Division. Guests will be permitted into the Facility, only if accompanied by a member and upon presentation of guest book coupons. The fee for a guest book of twenty (20) coupons shall be two dollars and twenty-five cents (\$2.25) per coupon or forty-five dollars (\$45.00) per book.

B. The number of coupons required for admittance into the Facility shall be as follows:

	Daily Fee - Weekends			
	<u># of Tickets</u>	<u>Fee</u>		
ADULT	4	\$9.00		
CHILD	2	\$4.50		
SENIOR	2	\$4.50		

C. The payment of guest books will not be refundable. Book will not have an expiration date and will be good from season to season.

D. Notwithstanding the foregoing, the Pool Manager may, at his or her discretion, curtail and/or eliminate guest privileges to avoid overcrowding of the Facility.

§ 132-21 Power and authority to fix rates and charges.

Rates of admission, fees, rents or other charges for admission to, use or enjoyment of the Marlboro Recreation Aquatic Center shall be fixed by the governing body. All such receipts shall be remitted to the Township Treasurer, and the aid accounts relative to the Marlboro Recreation Aquatic Center shall be kept separate and distinct from any other account of the Township.

§ 132-22 Authority to make rules; enforcement.

A. The governing body of the Township may, by ordinance or resolution, make, alter, amend and repeal rules and regulations for the supervision, regulation and control of all activities carried on, conducted, sponsored, arranged or provided for in connection with the Marlboro Recreation Aquatic Center and for the protection of property and may prescribe and enforce fines and penalties for the violation of any such regulations.

B. The Code Enforcement Officer, Swim Club Executive Director or any police officer of the Township of Marlboro is hereby empowered to enforce the provisions of this chapter, including but not limited to the power to issue a summons to any person who violates the terms of this chapter or any regulations adopted by the Township Council or Swim Division pursuant thereto.

§ 132-23 Violations and penalties.

Any applicant or member submitting an application or correspondence to the Swim Club office at the Municipal Complex who knowingly provides false or misleading information will be subject to immediate loss of membership at the Marlboro Recreation Aquatic Center and forfeiture of any and all fees paid. The applicant or member shall also be subject to a fine at the discretion of the Municipal Court Judge of not more than \$500.00."

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

Council President Morelli opened the Public Hearing on Ordinance # 2006-10 (Amend Chapter 84 - Developer Contribution for Street Lighting). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution Res. #2006-110/Ord. # 2006-10 (Amend Chapter 84 - Developer Contribution

for Street Lighting) was introduced by reference, offered by Councilwoman Tragni, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-110

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-10

AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLE II "LAND USE PROCEDURES", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO REQUIRING DEVELOPERS TO PAY A CONTRIBUTION FEE TOWARD STREET LIGHTING

which was introduced on February 16, 2006, public hearing held March 2, 2006, be adopted on second and final reading this 2nd day of March, 2006.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Resolution #2006-106/Ordinance #2006-11 (Tabled 2/16 - Stormwater Management) was introduced by reference, offered by Councilman Pernice, and seconded by Council President Morelli. Discussion followed, during which Township Planner Jennifer Beahm gave a synopsis and she and Township Attorney Andrew Bayer answered all Council's questions. After discussion, the resolution/ordinance was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-106

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2006-11

AN ORDINANCE DELETING SECTION 84-104 "STORMWATER MANAGEMENT", ARTICLE VIII "SUBDIVISIONS: DESIGN AND PERFORMANCE STANDARDS", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO AND ADOPTING A NEW ARTICLE ENTITLED ARTICLE IX "STORMWATER MANAGEMENT" OF CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS"

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on March 16, 2006 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2006-11

AN ORDINANCE DELETING SECTION 84-104 "STORMWATER MANAGEMENT", ARTICLE VIII "SUBDIVISIONS: DESIGN AND PERFORMANCE STANDARDS", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO AND ADOPTING A NEW ARTICLE ENTITLED ARTICLE IX "STORMWATER MANAGEMENT" OF CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS"

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Section 84-104 "Stormwater Management" of Chapter 84 "Land Use Development and Regulations" of the Code of the Township of Marlboro be and hereby is deleted in its entirety and said section shall be reserved for future use; and

BE IT FURTHER ORDAINED, that a new article entitled Article IX "Stormwater Management" shall be added to Chapter 84 "Land Use Development and Regulations" and shall read in its entirety as follows:

"Article IX, Stormwater Management

§ 84-150. Scope and Purpose.

Policy Statement

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple

stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

Purpose

It is the purpose of this article to establish minimum stormwater management requirements and controls for "major development," as defined in § 84-151.

C. Applicability

1. This article shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

- a. Non-residential major developments; and
- b. Aspects of residential major developments that are not regulated by the Residential Site Improvement Standards at N.J.A.C. 5:21.

2. This article shall also be applicable to all major developments undertaken by Township of Marlboro.

D. Compatibility with Other Permit and Ordinance Requirements

Development approvals issued for subdivisions and site plans pursuant to this article are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this article shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This article is not intended to interfere with or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall apply.

§ 84-151. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

"Agricultural development" means land uses normally associated with the production of food, fiber and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

"Compaction" means the increase in soil bulk density.

"Core" means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

"County Review Agency" means an agency designated by the County Board of Chosen Freeholders to review the Township of Marlboro's stormwater management plans and implementing ordinance(s). The county review agency may either be:

A county planning agency; or

A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

"Department" means the New Jersey Department of Environmental Protection.

"Design engineer" means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 et seq.

"Drainage area" means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

"Environmentally critical areas" means an area or feature which is

of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

"Flood Hazard Area" Area of potential risk due to sudden and temporary increase of surface water flow due to a storm event, typically, the 100-year storm.

"Impervious surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

"Infiltration" is the process by which water seeps into the soil from precipitation.

"Major development" means any "development" that provides for ultimately disturbing one or more acres of land or results in a net increase of one-quarter (1/4) acre or more of impervious surface. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

"Municipality" means any city, borough, town, township, or village.

"Node" means an area designated by the State Planning Commission concentrating facilities and activities that are not organized in a compact form.

"Nutrient" means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

"Person" means any individual, corporation, company, partnership, firm, association, the Township of Marlboro or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials,

medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works.

"Pollutant" shall include both hazardous and non-hazardous pollutants.

"Recharge" means the volume of water from precipitation that infiltrates into the ground and is not evapotranspired.

"Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

"Site" means the lot or lots upon which a development is to occur or has occurred.

"Soil" means all unconsolidated mineral and organic material of any origin.

"Solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids.

"Source Controls"

"State Development and Redevelopment Plan Metropolitan Planning Area (PA1)" means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts.

"State Plan Policy Map" is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

"Stormwater" means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

"Stormwater runoff" means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

"Stormwater management basin" means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

"Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;

"Total suspended solids" The sum of dissolved and undissolved solids and particulate matter of a buoyancy and/or specific gravity that prohibits their settling in runoff.

"Waters of the State" means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

"Wetlands" or "wetland" means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

§ 84-152. General Standards.

A. Design and Performance Standards for Stormwater Management Measures

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in § 84-153. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural

stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in this article apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

Note: Alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in N.J.A.C. 7:8-5.

§ 84-153. Stormwater Management Requirements for Major Development.

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with § 84-159.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 84-153(F) and (G):
 1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
 2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and

3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14-feet, provided that the access is made of permeable material.

D. A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of § 84-153(F) and (G) may be obtained for the enlargement of an existing public roadway; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of § 84-153(F) and (G) to the maximum extent practicable;
3. The applicant demonstrates that, in order to meet the requirements of § 84-153(F) and (G), existing structures currently in use, such as homes and buildings, would need to be condemned; and
4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of § 84-153(F) and (G) that were not achievable on-site.

E. Nonstructural Stormwater Management Strategies

1. To the maximum extent practicable, the standards in § 84-153(F) and (G) shall be met by incorporating nonstructural stormwater management strategies set forth at § 84-153(E) into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in § 84-153(E)(2) below into the design of a particular project,

the applicant shall identify the strategy considered and provide a basis for the contention.

2. Nonstructural stormwater management strategies incorporated into site design shall:

- a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
- b. Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
- c. Maximize the protection of natural drainage features and vegetation;
- d. Minimize the decrease in the time of concentration from pre-construction to post construction.
- e. Minimize land disturbance including clearing and grading;
- f. Minimize soil compaction;
- g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
- h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
- i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy § 84-153(E)(3) below;
 - (2) Site design features that help to prevent discharge of trash and debris from drainage systems;

- (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - (4) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules.
- 3. Site design features identified under § 84-153(E)(2)(i)(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For exemptions to this standard see § 84-153(4)(E)(3)(c) below.
 - a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - (1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - (2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
 - b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two

or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

c. This standard shall not apply under the following conditions or situations:

(1) Where the Township Engineer determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(2) Where flows from the water quality design storm as specified in § 84-153(G)(1) are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

(b) A bar screen having a bar spacing of 0.5 inches.

(3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars, to the elevation of the water quality design storm as specified in § 84-153(G)(1); or

(4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in

§ 84-153(G) and (F) shall be dedicated to a government agency, subjected to a conservation restriction filed with the Office of the Monmouth County Clerk, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the Township Engineer is maintained in perpetuity.

5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 84-156, or found on the Department's website at www.njstormwater.org.

F. Erosion Control, Groundwater Recharge and Runoff Quantity Standards

1. This subsection contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.
 - a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.
 - b. The minimum design and performance standards for groundwater recharge are as follows:
 - (1) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at § 84-154, either:
 - (a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
 - (b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

(2) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to (3) below.

(3) The following types of stormwater shall not be recharged:

(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(4) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or down gradient of the groundwater recharge area.

c. In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at § 84-154, complete one of the following:

(1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two, 10, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two, 10, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(3) Design stormwater management measures so that the post-construction peak runoff rates for the 2, 10 and 100 year storm events are 50, 75 and 80 percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the

portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

2. Any application for a new agricultural development that meets the definition of major development at § 84-151 shall be submitted to the Freehold Soils Conservation District (FSCD) for review and approval in accordance with the requirements of this section and any applicable FSCD guidelines for stormwater runoff quantity and erosion control.

G. Stormwater Runoff Quality Standards

1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional 1/4-acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 1. The calculation of the volume of runoff may take into account the implementation of non-structural and structural stormwater management measures.

Table 1: Water Quality Design Storm Distribution

Time Cumulative Rainfall (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	(Inches)
0	0.0000	65	0.8917
5	0.0083	70	0.9917

10	0.0166	75	1.0500
15	0.0250	80	1.0840
20	0.0500	85	1.1170
25	0.0750	90	1.1500
30	0.1000	95	1.1750
35	0.1330	100	1.2000
40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

2. For purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in § 84-156, or found on the Department's website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in § 84-156. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency.
3. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AB)/100$$

Where

R = total TSS percent load removal from application of both BMPs, and

A = the TSS percent removal rate applicable to the first BMP

B = the TSS percent removal rate applicable to the second BMP

Table 2: TSS Removal Rates for BMPs

Best Management Practice Rate	TSS Percent Removal (Percent)
----------------------------------	----------------------------------

<i>Bioretention Systems</i>	90
<i>Constructed Stormwater Wetland</i>	90
<i>Extended Detention Basin</i>	40-60
<i>Infiltration Structure</i>	80
<i>Manufactured Treatment Device</i>	See Section 6.C
<i>Sand Filter</i>	80
<i>Vegetative Filter Strip</i>	60-80
<i>Wet Pond</i>	50-90

4. If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.
5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in § 84-153(F) and (G).
6. In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
7. Special water resource protection areas have been established along all waters designated Category One at N.J.A.C. 7:9B, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas have been established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional

fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

(1) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession.

(2) Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.

b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq.

c. If stormwater discharged outside of and flowing through the special water resource protection area

cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act , N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

- (1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;
- (2) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;
- (3) Temperature shall be addressed to ensure no impact on the receiving waterway;
- (4) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
- (5) All encroachments proposed under this section shall be subject to review and approval by the Department.

- d. Paragraph G.8 does not apply to the construction of one individual single family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004 , provided that the construction begins on or before February 2, 2009.

§ 84-154. Calculation of Stormwater Runoff and Groundwater Recharge.

A. Stormwater runoff shall be calculated in accordance with the following:

1. The design engineer shall calculate runoff using one of the following methods:
 - a. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as

described in the NRCS National Engineering Handbook
Section 4 - Hydrology and Technical Release 55 -
Urban Hydrology for Small Watersheds; or

- b. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
2. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at § 84-154(A)(1)(a) and the Rational and Modified Rational Methods at § 84-154(A)(1)(b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
3. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.
4. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds and other methods may be employed.

5. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

1. The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at;
<http://www.state.nj.us/dep/njgs/>; or at
New Jersey Geological Survey, 29 Arctic Parkway
P.O. Box 427 Trenton, New Jersey 08625-0427.

C. Designs of stormwater conduit systems shall utilize the Sandy Hook, 25-year, Rainfall.

§ 84-155. Standards for Structural Stormwater Management Measures.

A. Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum

spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of § 84-157(D).

3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement.
 4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
 5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at § 84-157.
- B. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by § 84-153.
- C. Manufactured treatment devices may be used to meet the requirements of § 84-153, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.

§ 84-157. Safety Standards for Stormwater Management Basins.

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

Note: The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management basins. Marlboro Township and Monmouth County stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management basins

to be retrofitted to meet one or more of the safety standards in § 84-157(B)(1), (2) and (3) for trash racks, overflow grates, and escape provisions at outlet structures.

B. Requirements for Trash Racks, Overflow Grates and Escape Provisions

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
 - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.
 - d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.
2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - b. The overflow grate spacing shall be no less than two inches across the smallest dimension.
 - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion

resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.

3. For purposes of this paragraph 3, escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

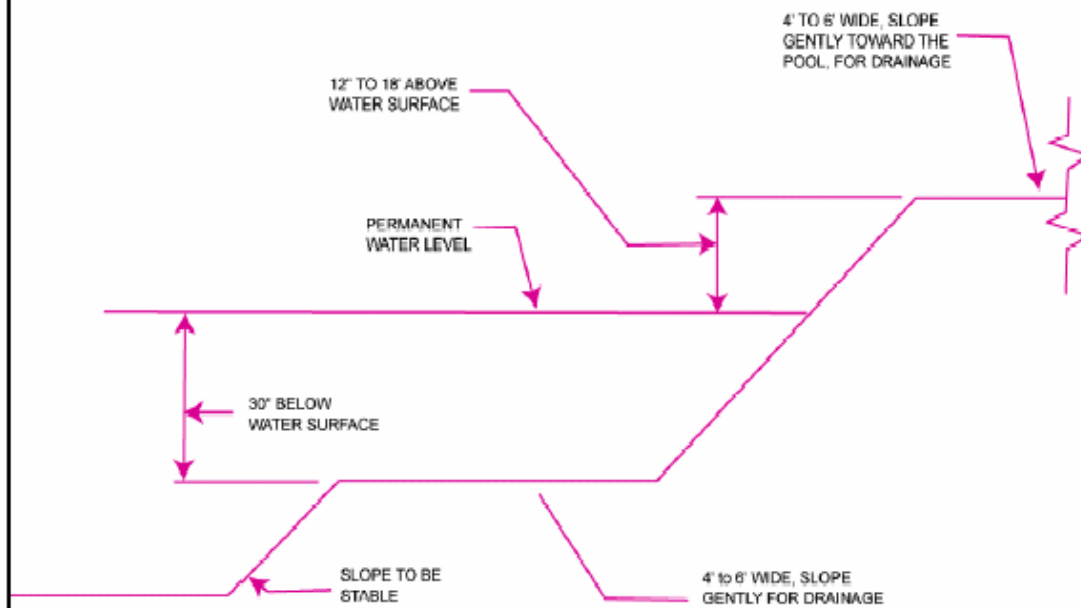
- a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in § 84-157(C) a freestanding outlet structure may be exempted from this requirement.
- b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See § 84-157(D) for an illustration of safety ledges in a stormwater management basin.
- c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical.

C. Variance or Exemption from Safety Standards

1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency, The Township of Marlboro, the County of Monmouth or the Department, that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin

Depicted is an elevational view.



NOTE: NOT DRAWN TO SCALE

NOTE: FOR BASINS WITH PERMANENT
POOL OF WATER ONLY

§ 84-158. Requirements for a Site Development Stormwater Plan.

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at § 84-158(C) below as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
3. The applicant shall submit [specify number] copies of the materials listed in the checklist for site development stormwater plans in accordance with § 84-158(C).

B. Site Development Stormwater Plan Approval - The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Checklist Requirements - The following information shall be required:

1. Topographic Base Map
The Township Engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their

appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

2. Environmental Site Analysis

- A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plan(s)

- A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan

- This plan shall provide a demonstration of how the goals and standards of Sections 84-152 through 84-155 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

5. Stormwater Management Facilities Map - The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of

vegetation thereon, and details of the proposed plan to control and dispose of stormwater.

- b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and postdevelopment conditions for the design storms specified in § 84-153.
- b. When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

7. Maintenance and Repair Plan - The design and planning of the stormwater management facility shall meet the maintenance requirements of § 84-159.

8. Waiver from Submission Requirements - The Township Engineer or, if applicable, Board Engineer in consultation with the Township Engineer, may waive submission of any of the requirements in § 84-158(C)(1) through (C)(6) when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 84-159. Maintenance and Repair.

A. Applicability

1. Projects subject to review as in § 84-150(C) shall comply with the requirements of § 84-159(B) and (C).

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
3. Responsibility for maintenance shall not be assigned or transferred to the Township in a residential development or project. Responsibility for facilities located in commercial or industrial development sites shall be the owner of the site. A named individual shall be responsible for the safety and maintenance of said facility. The posting of a two year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 shall be required for all facilities not dedicated to the Township or other public agency.
4. If the person responsible for maintenance identified under § 84-159(B)(2) above is not a public agency, the maintenance plan and any future revisions based on § 84-159(B)(7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
5. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to

the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.

6. The person responsible for maintenance identified under § 84-159(B)(2) above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders. This log shall be made available for inspection at the request of the Township, County, or the Department.
7. The person responsible for maintenance identified under § 84-159(B)(2) above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
8. The person responsible for maintenance identified under § 84-159(B)(2) above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 84-159(B)(6) and (B)(7) above.
9. The requirements of Sections 84-159(B)(3) and (B)(4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
10. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.

- B. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

§ 84-160. Penalties.

Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this article shall be subject to the following penalties:

Failure to comply with any provisions of this Section shall be considered a violation of the Coded Ordinances of the Township of Marlboro and shall be punishable by a fine of one thousand dollars (\$1,000.00) or ninety (90) days in jail, or both. Each day of such violations continuance shall be considered as a separate offence and shall be separately punishable. These penalties shall not be in the exclusive remedy available, and nothing in this ordinance shall prevent an applicant from obtaining injunctive relief.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage, publication and approval by the county review agency in accordance with applicable law.

The following Resolution #2006-44 (carried from 1/19 - Authorizing Amendment to Contract Birdsall - COAH) was introduced by reference, offered by Council President Morelli, seconded by Council Vice President Cantor and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-44

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE CONTRACT
BETWEEN THE TOWNSHIP OF MARLBORO AND BIRDSALL
ENGINEERING, INC. FOR THE PROVISION OF SPECIAL PROJECT
ENGINEERING/PROFESSIONAL PLANNER SERVICES RELATED TO THE

TOWNSHIP OF MARLBORO'S AFFORDABLE HOUSING FAIR SHARE
OBLIGATION

WHEREAS, by Resolution #2005-45, the Township Council authorized a professional services contract for the 2005 calendar year between the Township of Marlboro and Birdsall Engineering, Inc. ("Birdsall") to provide special project engineering/professional planner services to the Township of Marlboro related to the Township of Marlboro's Affordable Housing Fair Share Obligation for a total amount not to exceed \$96,500.00 (the "Contract"); and

WHEREAS, over the course of 2005, it became necessary for the Township to utilize the services of Birdsall more frequently than expected in relation to preparation and submission of the Township's Amended Fair Share Plan and Housing Element; and

WHEREAS, it is necessary to amend the Contract to increase the total contract amount from \$96,500.00 to \$135,768.00.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute an amendment to the Contract, in a form legally acceptable to the Township Attorney, to increase the total contract amount from \$96,500.00 to 135,768; and

BE IT FURTHER RESOLVED that the Chief Financial Officer has executed a Certification of Funds for this amendment to the Contract, which is attached hereto, and that sufficient funds are available for said amendment to the Contract from Account Number T-18-56-858-028; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Jennifer Beahm of Birdsall Engineering, Inc.
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP

The following Resolution #2006-111 (Temporary Emergency Appropriation) was introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Traghi and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-111

EMERGENCY TEMPORARY RESOLUTION
PRIOR TO ADOPTION OF THE BUDGET

WHEREAS, N.J.S.A. 40A:4-20 provides authorization for an emergency temporary appropriation in anticipation of the adoption of the 2006 Municipal budget; and

WHEREAS, this resolution authorizes appropriations representing 50% of the full 2005 appropriations with the exception of debt service and seasonal considerations; and

WHEREAS, the total emergency temporary resolutions adopted in the year CY 2006 pursuant to the provisions of N.J.C.A. 40A 4-20 (Chapter 96, P.L.1951 as amended) including this resolution total; \$15,847,848.40 for the municipal budget and \$416,500.00 for the operations of the swim utility;

NOW THEREFORE, BE IT RESOLVED, that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made for each of the accounts listed on the attached.
2. That each said emergency temporary appropriation has been provided for in the CY 2006 budget under the same title as appropriated above.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

2006 Temporary Emergency Appropriation

CURRENT FUND - OPERATING
APPROPRIATIONS

Administration (30)	
Salary & Wages	110,000.00
Other Expenses	26,800.00

Office of the Mayor (10)	
Salary & Wages	25,000.00
Other Expenses	2,850.00
Township Council (21)	
Salary & Wages	9,000.00
Other Expenses	4,000.00
Public Information	
Salary & Wages	51,000.00
Other Expenses	19,300.00
Municipal Clerk (20)	
Salary & Wages	86,000.00
Other Expenses	33,850.00
Finance	
Salary & Wages	105,000.00
Other Expenses	15,250.00
Annual Audit	0.00
Central Computer Services	
Salary & Wages	14,250.00
Other Expenses	13,750.00
Tax Collector	
Salary & Wages	105,000.00
Other Expenses	16,500.00
Tax Assessor	
Salary & Wages	85,000.00
Other Expenses	47,500.00
Legal Services	
Salary & Wages	
Other Expenses	250,000.00
Engineering Services	
Salary & Wages	136,250.00
Other Expenses	59,200.00
Economic Development	
Salary & Wages	
Other Expenses	500.00

Community Relations	
Other Expenses	100.00
Inter- Governmental Relations	
Other Expenses	1,500.00
Homeland Security	
Salary & Wages	17,500.00
Other Expenses	26,000.00
Historic Sites Commission	
Other Expenses	2,000.00
Planning Board	
Salary & Wages	51,000.00
Other Expenses	20,500.00
Planning Board Contractual	
Other Expenses	21,750.00
Zoning Board	
Salary & Wages	57,500.00
Other Expenses	13,000.00
Liability Insurance	350,000.00
Workers Comp	300,000.00
Group Insurance	1,100,000.00
Unemployment Insurance	10,000.00
Police	
Salary & Wages	3,500,000.00
Other Expenses	171,000.00
Crime Prevention	
Other Expenses	14,500.00
DARE Program	
Other Expenses	11,500.00
Highway Safety	
Other Expenses	15,000.00
Emergency Management	

Salary & Wages	8,750.00
Other Expenses	10,000.00
Aid to Volunteer Ambulance Companies	
Other Expenses	30,000.00
Uniform Fire Safety Act	
Salary & Wages	61,750.00
Other Expenses	10,475.00
Municipal Prosecutors Office	
Salary & Wages	15,000.00
Streets and Road Maint	
Salary & Wages	700,000.00
Other Expenses	22,400.00
Snow Removal	
Salary & Wages	75,000.00
Other Expenses	200,000.00
Public Works - Other	
Salary & Wages	165,000.00
Other Expenses	30,000.00
Shade Tree Commission	
Salary & Wages	1,000.00
Other Expenses	5,000.00
Solid Waste Collection	
Salary & Wages	12,250.00
Other Expenses	300,000.00
Buildings & Grounds	
Salary & Wages	252,500.00
Other Expenses	70,000.00
Vehicle Maintenance	
Salary & Wages	260,000.00
Other Expenses	57,000.00
Community Services Act	
Other Expenses	0.00
Public Health Services - Registrar	
Salary & Wages	3,250.00

Other Expenses	850.00
Drug Abuse Control	
Salary & Wages	
Other Expenses	5,775.00
Environmental Health Services	
Salary & Wages	
Other Expenses	4,000.00
Animal Control Services	
Other Expenses	20,000.00
Recreation	
Salary & Wages	171,500.00
Other Expenses	65,000.00
Teen Program	
Salary & Wages	3,500.00
Other Expenses	5,000.00
Summer Youth Activities	
Salary & Wages	3,500.00
Other Expenses	3,500.00
Park Maintenance	
Salary & Wages	195,000.00
Other Expenses	25,000.00
Municipal Library	
Other Expenses	8,500.00
Little League	
Other Expenses	0.00
Pop Warner	
Other Expenses	0.00
Prior Year Bills	0.00
Accumulated Leave Compensation	0.00
Salary and Wage Adjustment	0.00
Postage	
Other Expenses	30,000.00

Electricity	132,000.00
Street Lighting	305,250.00
Telephone	60,000.00
Water	7,800.00
Natural Gas	50,000.00
Sewer	3,500.00
Gasoline	125,000.00
Landfill Disposal Costs	125,000.00
PERS	132,500.00
FICA	500,000.00
Municipal Court	
Salary & Wages	150,000.00
Other Expenses	57,000.00
Public Defender	
Salary & Wages	
Other Expenses	8,250.00
Affordable Housing	
Salary & Wages	4,500.00
Other Expenses	2,350.00
Police Dispatch 911	
Salary & Wages	287,500.00
Other Expenses	105,000.00
LOSAP	
Other Expenses	0.00
PFRS	
Other Expenses	614,500.00
Library County Contract	
Other Expenses	10,000.00

SFSP Fire District Payments	
Other Expenses	7,000.00
Monmouth Drug & Alcohol	
Grant Share	33,095.00
Local Share	8,273.75
StormWater Regulation Grant	
Grant Share	15,464.00
Local Share	3,866.00
Body Armor Grant	6,694.65
Handicapped Recreational Opportunities Grant	4,910.00
Capital Improvement Fund	
Other Expenses	200,000.00
Bond Principal	1,696,000.00
Bond Interest	795,680.00
Note Interest	116,500.00
Green Acres Trust - P & I	28,865.00
Capital Lease program	
Principal	450,000.00
Interest	72,000.00
Totals	15,847,848.40

SWIM UTILITY - OPERATING APPROPRIATIONS

Salary & Wages	200,000.00
Other Expenses	150,000.00
Capital Outlay	40,000.00
Payment of Bond Principal	10,000.00
Payment of Bond Interest	1,500.00
PERS	
FICA	15,000.00



Totals

416,500.00

The following Resolution #2006-112 (Amending Previous Transfer Resolution) was introduced by reference, offered by Council Vice President Cantor, seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-112

WHEREAS, it has been discovered that the transfer of funds acted upon on November 5, 2005 by the Township Council of the Township of Marlboro, Monmouth County, State of New Jersey contained an error, and

WHEREAS, this error was the transfer of funds from two "Out of CAP" budget accounts in the amount of \$7,500 each, and

WHEREAS, these accounts are identified as "Affordable Housing S&W" and "911 Expenses S&W", and

WHEREAS, it has been recommended by the Chief Financial Officer to correct this transfer resolution to read that the transfer should come from the "Tax Assessment OE" and "Recreation OE" line items which are both "In CAP" accounts,

NOW, THEREFORE, BE IT RESOLVED that the transfer resolution of November 5, 2005 is hereby corrected to reflect such change.

The following Resolution #2006-113 (Authorizing Business Administrator - Purchasing) was introduced by reference, offered by Council President Morelli, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-113

A RESOLUTION AUTHORIZING THE BUSINESS ADMINISTRATOR TO EXECUTE CONTRACTS UP TO \$17,500

WHEREAS, N.J.S.A. 40A:11-3, included within the Local Public Contracts Law, permits the Township Council to adopt a resolution authorizing the designated purchasing agent of the Township to award contracts up to the bid threshold of \$21,000.00 without going through the public bidding process and without prior approval of the Township Council; and

WHEREAS, in accordance with that provision, the Township Council is desirous of authorizing the Business Administrator to execute and approve any and all contracts of up to \$17,500; and

WHEREAS, when awarding such contracts, the Business Administrator shall be obligated to adhere to all applicable provisions of the Local Public Contracts Law, including N.J.S.A. 40A:11-6.1 requiring that, if practicable, at least two competitive quotations must be solicited for all contracts that are less than the bid threshold, but 15% or more of that amount; and

WHEREAS, the Township Council believes that providing such authorization to the Business Administrator will allow the business of the Township to proceed in the most efficient manner, while at the same time, allowing the Business Administrator to ensure that the process by which all contracts under \$17,500 are awarded complies with the applicable requirements and the intent of the Local Public Contracts Law.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro in the County of Monmouth that Judith Tiernan, Business Administrator is hereby authorized to execute and approve any and all contracts up to \$17,500; and

BE IT FURTHER RESOLVED that Judith Tiernan, Business Administrator, when awarding such contracts, is obligated to adhere to all applicable provisions of the Local Public Contracts Law, including N.J.S.A. 40A:11-6.1 requiring that, if practicable, at least two competitive quotations must be solicited for all contracts that are less than the bid threshold, but 15% or more of that amount; and

BE IT FURTHER RESOLVED that Judith Tiernan, Business Administrator, is authorized, in accordance with N.J.S.A. 40A:11-6.1, to award contracts that are less than 15% of the bid threshold without soliciting competitive quotations; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Business Administrator
- b. Township Chief Financial Officer
- c. Gluck Walrath LLP.

The following Resolution #2006-114 (Change Order #1 - NJDOT Trust Fund - Earle Asphalt) was introduced by reference, offered by

Councilman Pernice, seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-114

RESOLUTION AUTHORIZING CHANGE ORDER NO. 1,
IMPROVEMENTS TO UNION HILL ROAD - ENGINEERING

WHEREAS, by Resolution No. 2004-382, the Township of Marlboro authorized an Agreement between the Township of Marlboro and Earle Asphalt Company for the provision of improvements to Union Hill Road for the Department of Engineering for an amount not to exceed \$118,713.13 (the "Agreement"); and

WHEREAS, the Township Engineer recommends the authorization of Change Order No. 1 decreasing that Agreement in the amount of \$19,988.52 for a total contract amount of \$98,724.61.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro as follows:

4. That the Mayor is hereby authorized to execute and the Municipal Clerk to attest to Change Order No. 1 to the Agreement between the Township of Marlboro and Earle Asphalt Company, in the form attached hereto, for a decrease of \$19,988.52 for a total contract amount of \$98,724.61;
5. That a certified copy of this resolution shall be provided to each of the following:
 - A. Earle Asphalt Company
 - B. Township Engineer
 - C. Chief Financial Officer
 - D. Gluck Walrath, LLP

The following Resolution #2006-115 (Award of Bid - Bus Transportation - Recreation) was tabled to a future meeting.

The following Resolution #2006-116 (Authorizing Appointment of Additional Judge - One-year term) was introduced by reference, offered by Council President Morelli, seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-116

A RESOLUTION RECINDING RESOLUTION #2006-80 AND CONSENTING TO THE
APPOINTING OF ALLEN S. KAPLAN AS A MUNICIPAL COURT JUDGE FOR A TERM
OF ONE YEAR

WHEREAS, pursuant to N.J.S.A. 2B:12-1, *et seq.*, every municipality must establish a municipal court; and

WHEREAS, pursuant to N.J.S.A. 2B:12-5, a municipality may, with the written consent of the Assignment Judge of the vicinage, increase the number of judgeships of the municipal court or appoint one or more temporary judges; and

WHEREAS, by Resolution #2006-38, the Township Council consented to the appointment of Richard A. Gantner as Municipal Court Judge for the Township of Marlboro for a three year term and until his successor shall be qualified and appointed; and

WHEREAS, thereafter, by Resolution #2006-80, the Township Council consented to the appointment of Allen S. Kaplan as Municipal Court Judge, Presiding Magistrate, for the Township of Marlboro for a three year term and until his successor shall be qualified and appointed; and

WHEREAS, subsequently, the Superior Court of New Jersey advised the Township of Marlboro that, in accordance with the Administrative Office of the Courts' policies, it is not necessary for the Township to have two Municipal Judges in place for the next three years, but would consent to the appointment of one Municipal Judge for a three year term and one Municipal Judge for a temporary one year term; and

WHEREAS, in accordance with those instructions, the Mayor intends to withdraw the appointment of Allen S. Kaplan as Municipal Court Judge, Presiding Magistrate, for a three year term and to instead appoint Judge Kaplan as a Municipal Court Judge for a temporary one year term;

WHEREAS, the Superior Court further advised the Township that the appointment of an additional municipal judge for the calendar year 2007 would be considered upon the submission by the Township of a request justifying the need for such an additional municipal judge; and

WHEREAS, the Township Council now desires to rescind Resolution #2006-80 and consent to the appointment of Allen S. Kaplan as a Municipal Court Judge for a temporary one year term.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro in the County of Monmouth that Resolution #2006-80 consenting to the appointment of Allen S. Kaplan as Municipal Court Judge, Presiding Magistrate, for the Township of Marlboro for a three year term and until his successor shall be qualified and appointed be and hereby is rescinded; and

BE IT FURTHER RESOLVED that the Township Council hereby consents to the appointment of Allen S. Kaplan as a Municipal Court Judge for the Township of Marlboro for a term ending December 31, 2006.

The following Resolution #2006-117 (Authorizing Professional Services Contract - Appraisal) was introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Tragni and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2006-117

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT BETWEEN BUCHALSKI, REYNOLDS & BRODOWSKI AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF PROFESSIONAL VALUATION AND CONSULTING SERVICES IN CONNECTION WITH THE ROAD WIDENING PROJECT OF ROBERTSVILLE ROAD

WHEREAS, the Township is undertaking a road widening project of Robertsville Road which may require that the Township obtain certain right-of-ways and/or easements with respect to three properties located in the Township of Marlboro (the "Project");

WHEREAS, the Township has requested proposals to provide the required professional valuation and consulting services for the Project; and

WHEREAS, Buchalski, Reynolds & Brodowski submitted a proposal dated February 28, 2006 (the "Proposal"), which is attached hereto and incorporated herein, to provide the necessary professional valuation and consulting services for the Project for an amount not to exceed \$5,400.00; and

WHEREAS, the Township Council deems it necessary and in the best interest of the municipality to hire Buchalski, Reynolds & Brodowski to provide the required professional valuation and consulting services for the Project; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between Buchalski, Reynolds & Brodowski to provide the required valuation and consulting services for the Project for an amount not to exceed \$5,400.00 in accordance with its Proposal; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number X-04-55-950-805; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Buchalski, Reynolds & Brodowski
- b. Business Administrator
- c. Township Chief Financial Officer
- d. Gluck Walrath, LLP

As the Consent Agenda, the following Resolutions were introduced by reference, offered by Councilman Pernice, seconded by Council President Morelli and passed on a roll call vote of 5 - 0 in favor: Res. #2006-118 (Award of Contract - Sole Source Provider - Police - Breathalyzer) and Res. #2006-119 (Award of State Contract - Office Furniture PD).

RESOLUTION # 2006-118

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT
BETWEEN THE TOWNSHIP OF MARLBORO AND DRAEGER SAFETY
DIAGNOSTIC'S, INC. FOR THE PURCHASE OF ONE (1) ALCOTEST
7110 MK III-C BREATH TESTING INSTRUMENT AND
RELATED EQUIPMENT

WHEREAS, the Township of Marlboro Police Department has informed the Township Council that a need exists for the Township of Marlboro to purchase one (1) Alcotest 7110 MK III-C breath testing instrument and related equipment; and

WHEREAS, the only vendor that manufactures the necessary equipment is Draeger Safety Diagnostic's, Inc., 8356 Sterling Street, Irving, TX 75063; and

WHEREAS, the Police Department obtained a quotation from Draeger Safety Diagnostic's, Inc. to provide the necessary Alcotest 7110 MK III-C breath testing instrument and related equipment for a total cost of \$13,309.95; and

WHEREAS, the Police Department has recommended that the Township Council authorize the execution of a contract between the Township of Marlboro and Draeger Safety Diagnostic's, Inc. for the provision of said equipment; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to enter into a contract with Draeger Safety Diagnostic's, Inc.; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, authorizes contracts for goods under \$21,000.00 to be awarded without public bidding, except that for such contracts over \$3,150.00, the Township must solicit at least two competitive quotations, if practicable; and

WHEREAS, because Draeger Safety Diagnostic's, Inc. is the only vendor to manufacture the needed equipment, it was not practicable to solicit two competitive quotations.

NOW, THERE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Draeger Safety Diagnostic's, Inc. for the provision of one (1) Alcotest 7110 MK III-C breath testing instrument and related equipment for an amount not to exceed \$13,309.95; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Draeger Safety Diagnostic's, Inc.
- b. Police Department
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

RESOLUTION # 2006-119

RESOLUTION AUTHORIZING THE PURCHASE OF OFFICE FURNITURE
FOR THE TOWNSHIP OF MARLBORO POLICE DEPARTMENT
STATE CONTRACT #A56310

WHEREAS, the Marlboro Township Police Department has recommended that the Township purchase office furniture from W.B. Mason Co., Inc., 535 Secaucus Road, Secaucus, NJ 07094 under State Contract #A56310, not to exceed \$3,669.39; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide office furniture to the Township of Marlboro; and

WHEREAS, funds are available in Capital Account Number X-04-55-959-947 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said office furniture;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase office furniture from W.B. Mason Co., Inc., 535 Secaucus Road, Secaucus, NJ 07094 under State Contract #A56310, not to exceed \$3,669.39; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. W.B. Mason Co., Inc., Secaucus, NJ
- b. Township Administrator
- c. Township Police Department

- d. Township Chief Financial Officer
- e. Gluck Walrath, LLP

The following items were carried to the March 16th agenda: Item #21 (Bond Reduction Maplewoods Estates, Item #22 (Bond Reduction Buckley Estates, Item #23 (Bond Reduction Hidden Estates), Item #24 (Bond Reduction Cannon Hill Estates) and Item #25 (Tax Collector Resolutions).

At 10:55 PM, Council President Morelli moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Councilman Rosenthal and passed on a roll call vote of 5 - 0 in favor. Recess was called and the executive session reconvened at 11:10 PM.

RESOLUTION # 2006-120

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 2nd day of March, 2006 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely litigation and personnel.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned item and that such executive session should take approximately 60 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 12:10 PM, Council Vice President Cantor moved that the meeting be opened. This was seconded by Council President Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

At 12:11 PM, Council Vice President Cantor moved that the meeting be adjourned. This was seconded by Council President Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

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MINUTES APPROVED: April 20, 2006

OFFERED BY: Pernice

AYES: 5

SECONDED BY: Morelli

NAYS: 0

ALIDA DE GAETA
MUNICIPAL CLERK

PATRICIA MORELLI
COUNCIL PRESIDENT